

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW COLBORN,

Plaintiff,

COPY

- VS -

CIVIL ACTION NO. 19-CV-0484-BHL

NETFLIX, INC., ET AL.

VOLUME I

Defendants.

VIDEOTAPED DEPOSITION OF

ANDREW L. COLBORN

DATE: July 21, 2022

TIME: 9:23 a.m. - 5:22 p.m.

TIME: 9:23 a.m. - 5

TIME: 9:23 a.m. - 5:22 p.m.

LOCATION: Godfrey & Kahn, S.C.
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Suite 1800
Milwaukee, Wisconsin 53202

REPORTED BY:

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25 Moira Demos.

14 ***

15
16 ALSO PRESENT:

17 Debra Bursik, Paralegal

18 Moira Demos, Defendant

19 Laura Ricciardi, Defendant

20 Melinda LeMoine, Director, Litigation, Netflix, Inc.

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1 Ms. Walker sent but not necessarily to the final
2 declaration signed by Mr. Colborn.

3 Q So we're going to come back to this
4 Exhibit 1 throughout the day, and I want to thank you
5 and your counsel for taking a look at it and agreeing
6 to what you could agree. I hope it will expedite
7 things today, but I'm mostly going to point you right
8 now to Exhibit A, attachment A of Exhibit 1, which is
9 my original letter.

10 A Okay.

11 Q And there were a handful of enumerated items
12 to which you declined to agree, and I want to point
13 you initially to items number 7, 8, and 9. Do you
14 see those?

15 A Yes.

16 Q And I'll read them out loud for the record.
17 Number 7 asked you to agree that "At the trial of
18 Mr. Avery for the murder of Teresa Halbach, a central
19 part of Mr. Avery's defense was that law enforcement,
20 including Mr. Colborn, planted evidence to frame him
21 (hereafter, the 'frame-up theory')." Do you see
22 that?

23 A Yes.

24 Q And number 8 says, "One part of the frame-up
25 theory put forth by the defense at Mr. Avery's trial

1 was that Mr. Colborn was looking directly at
2 Ms. Halbach's vehicle when he made a November 3rd,
3 2005 call to dispatch." Did I read number 8
4 correctly?

5 A Yes.

6 Q And number 9 says, "A second part of the
7 frame-up theory put forth by the defense at
8 Mr. Avery's trial was that Mr. Colborn was involved
9 in planting the key to Ms. Halbach's vehicle in
10 Mr. Avery's bedroom." Did I read that correctly?

11 A Yes.

12 Q And you declined to admit to these three
13 factual allegations, correct?

14 A Yes, I declined to admit to those.

15 (Exhibit 2 marked for identification.)

16 Q So I'm handing you what we've previously
17 marked as Exhibit 2. You can set aside Exhibit 1 for
18 a second but keep it handy. Often what witnesses do
19 is they'll just make a stack in order so they can
20 find things later in the day.

21 A Okay.

22 Q Exhibit 2 is the operative complaint in this
23 case, the Second Amended Complaint. Do you see that
24 at the top?

25 A Yes.

1 Q And I'd like to point you to paragraph 33,
2 if you could flip there.

3 A Got it.

4 Q And paragraph 33 begins, "A central part of
5 Avery's defense at trial was that Plaintiff and other
6 Manitowoc officers planted Halbach's SUV at the Avery
7 Salvage Yard." Did I read that correctly?

8 A Yes.

9 Q And so I'm wondering if you can explain to
10 me why you did not -- why you refused to admit
11 number 7 on Exhibit 1. And I'll read it again. "At
12 the trial of Mr. Avery for the murder of Teresa
13 Halbach, a central part of Mr. Avery's defense was
14 that law enforcement, including Mr. Colborn, planted
15 evidence to frame him (hereafter the 'frame-up
16 theory')." Your counsel has an objection.

17 MR. BURNETT: I do. Mr. Colborn's -- I
18 object to the form and a lack of foundation. I'm
19 going to give Mr. Colborn an instruction. To the
20 extent that answering that question would require you
21 to reveal communications, information you learned
22 from counsel, you should decline to answer that
23 question on grounds of privilege. To the extent that
24 you can answer the question as phrased without
25 revealing privilege, you should go ahead and answer.

1 Q Do you need me to repeat the question?

2 A Please.

3 Q So my question boils down to if your
4 Complaint alleges in paragraph 33 that a central part
5 of Avery's defense at trial was that plaintiff and
6 other Manitowoc officers planted Halbach's SUV at the
7 Avery salvage yard, then why will you not admit to
8 proposed stipulation number 7?

9 MR. BURNETT: Same objection. Same
10 instruction.

11 Q You can answer if you feel you can.

12 A I'm going to decline to answer then.

13 Q Okay. Do you stand by the allegations in
14 your Complaint, Mr. Colborn?

15 MR. BURNETT: Same objection, form and
16 foundation. To the extent that you can answer that
17 question based on your personal knowledge, go ahead.

18 A Yes, I do.

19 Q All right. I'm going to hand you what we've
20 previously marked as Exhibits 3 and Exhibit 4.

21 (Exhibits 3 and 4 marked for
22 identification.)

23 MR. BURNETT: Thank you.

24 Q All right. I'm handing you Exhibits 3 and 4
25 together, Mr. Colborn, because as you'll see,

1 question.

2 Q And I can just state at the outset that
3 whenever I ask you about who you've talked to or what
4 they've said, I don't ever mean to ask you about your
5 conversations with your attorneys.

6 So other than your attorneys, are you
7 telling me you don't know anything about Kathleen
8 Zellner's motion on behalf of Steven Avery?

9 A I can't answer as to what is going through
10 Attorney Zellner's mind and her motion.

11 Q Let me -- let me stop you because that
12 wasn't my question. My question is you testified you
13 haven't read her motion; is that correct?

14 A I have not read her motion in its entirety,
15 that is correct.

16 Q Have you read part of it?

17 A Yes.

18 Q And have you talked about it with people
19 other than your attorney?

20 A Not that I can specifically recall, but I
21 have read it --

22 Q And so would you agree --

23 A -- in part. Sorry.

24 Q Would you -- that's okay. It's a habit we
25 all fall into. Would you agree with me that the

1 parts of her motion you have read or heard about or
2 talked with people about is a continuation of the
3 theory of the defense presented by Avery's attorneys
4 during the trial?

5 A No, I can't make that connection. I'm not
6 entirely sure what the attorneys at trials -- because
7 I was never accused in trial of planting evidence, so
8 I don't know if they were accusing me of that or not.

9 Q Do you think Mr. Avery had a theory at his
10 trial?

11 MR. BURNETT: Can I hear that question
12 again?

13 Q Do you think Mr. Avery had a theory at his
14 trial?

15 MR. BURNETT: Same objection,
16 foundation.

17 A I wouldn't be able to speculate what
18 Mr. Avery's theory was.

19 Q Well, you attended parts of the trial,
20 correct?

21 A I testified at the trial.

22 Q Meaning you attended parts of it?

23 A Yes.

24 Q Did you attend any portion where you did not
25 testify?

1 A I believe I was present in the courtroom for
2 his sentencing.

3 Q And did you read media reports about the
4 trial at the time it was happening?

5 A Not at the time it was happening.

6 Q After it happened?

7 A Certainly.

8 Q And let me just ask point-blank. Are you
9 sitting here today and is it going to be your
10 position today that you have no theory of what
11 Mr. Avery's defense was at his trial?

12 A That is going to be my position, yes. I'm
13 not going to speculate as to what his defense
14 attorney's theory was.

15 Q I'm asking you as you -- based on your
16 personal knowledge, I'm not asking you to speculate.
17 Let me rephrase the question.

1 **describe it for me.**

2 A I think the defense's theory was to throw as
3 much mud against the wall and see what would stick.

4 **Q What kind of mud did they throw?**

5 A A lot of procedural questions. That's what
6 I interpreted the license plate rigma -- numerous
7 questions about my running the license plate seemed
8 very procedural to me, and I took that as a desperate
9 act to get an obviously guilty client off.

10 **Q So they were trying to get a guilty client
11 off by throwing mud. That's your explanation of the
12 theory of his case?**

13 A Well, to put it more articulately, I'm sure
14 they were trying to raise reasonable doubt so that a
15 jury wouldn't convict him.

16 **Q Besides the license plate, what other
17 examples or pieces of the theory can you remember and
18 articulate for me?**

19 A Could I ask you to be more specific, ma'am?

20 **Q Well, sure. There was something about a
21 key, finding a key, correct, at trial?**

22 A Yes.

23 **Q What do you remember about that?**

24 A One of Avery's defense attorneys asked me
25 numerous questions about how I happened to locate the

1 key, which I didn't locate it; how the key happened
2 to be in the position where it was when it was found;
3 and asked me to describe how that key might have
4 fallen from a bookcase that we were searching.

5 Q You would agree with me that they certainly
6 meant to insinuate or suggest that you or Officer
7 Lenk or some law enforcement officer planted the key,
8 correct?

9 MR. BURNETT: Objection, form,
10 foundation, calls for speculation.

11 A Again, I'm not going to speculate as to what
12 their theory was.

13 Q I'm not asking you to speculate. I'm asking
14 based on your personal recollection as a personal
15 witness to the proceedings and a participant in them,
16 how you would describe their theory and whether
17 finding the key was part of their theory. That's not
18 asking for speculation, Mr. Colborn.

19 A Well, I would like to think that my answers
20 were such that they moved on from that.

21 Q That's not my question. I'm asking you to
22 describe what your personal understanding of their
23 theory was.

24 A They were trying to understand how we found
25 the key and why we didn't find it earlier. Again, I

1 was never accused of planting evidence.

2 Q Who were they throwing mud at? Were they
3 throwing it at you?

4 A I'm sure they were hoping that I was going
5 to make some sort of --

6 Q That's not my question. You used the phrase
7 they were throwing mud.

8 A Uh-huh.

9 Q And I'm asking were they throwing mud at
10 you?

11 A I think they were questioning our procedure
12 during the searches, yes.

13 MS. WALKER: So I'm just going to pause
14 for a minute and direct a comment to your client --
15 counsel, which is this is going to take a while today
16 if this is -- if we're going to show him -- have to
17 show him a lot of documents to get him to articulate
18 the theory of the case.

19 MR. BURNETT: Well --

20 MS. WALKER: I just want to say that at
21 the outset so you're not surprised when this drags on
22 for many hours.

23 MR. BURNETT: Well, if you want, I'll
24 respond to that. What Mr. Colborn's trying to tell
25 you is that he attended some parts of the trial and

1 served on you -- I'm just going to give you a date as
2 to when those were finalized -- back in January,
3 okay? So about eight months ago or so.

4 A Okay.

5 Q And the second document, which I've sort of
6 pieced out there for you, is revised responses to the
7 requests for admissions --

8 A Okay.

9 Q -- that they served, I think, a few days
10 ago, the 19th of July. Have you ever seen these
11 before?

12 A Yes.

13 Q Okay. And you agree with everything in your
14 responses to both documents?

15 MR. BURNETT: Objection, form.

16 Q Let me ask it differently. Your clients --
17 or your attorneys did not draft and serve these
18 responses without your approval, correct?

19 MR. BURNETT: That calls for privileged
20 communications. Decline to answer that.

21 A And based on the advice of my counsel --

22 Q Let's talk about a specific one. So --

23 A Okay.

24 Q -- three pages in is Request for Admission
25 Number 3.

1 A On the first one?

2 Q On the first one. And the question posed
3 was, "Admit that at the Criminal Trial of Steven
4 Avery, Avery's counsel contended that Plaintiff
5 planted evidence to frame Avery for Teresa Halbach's
6 murder." Do you see that that's the question?

7 A Yes, I see it.

8 Q And then a response is right beneath it, and
9 it says, "Subject to Plaintiff's general objections,
10 deny. To 'contend' is defined by Merriam-Webster as
11 to 'assert,' which is in turn defined as 'to state
12 (something) in a strong and definite way.' Avery's
13 attorneys' opening and closing arguments reveal no
14 strong and definite statement that Plaintiff planted
15 evidence to frame Avery for Teresa Halbach's murder."
16 Did I read that correctly?

17 A Yes.

18 Q Have you ever reviewed this response before?

19 A Yes.

20 Q And you approved of it being your response
21 to these requests for admissions, correct?

22 A Yes.

23 Q Okay. And you denied this in the first
24 instance. We'll come back to your amended responses
25 in a minute, but you denied this in the first

1 instance because you said contend means to state
2 something in a strong and definite way. Do you see
3 that?

4 A Yes.

5 Q And it was your position, at least at the
6 time of these responses back in January, that his
7 attorneys did not do that, correct?

8 A That definition was the work product of my
9 attorneys. I didn't personally write that.

10 Q But you agreed with what they were saying
11 here?

12 A Yes, I agreed with them.

13 Q And you similarly responded. Sort of the
14 same boilerplate language appears in number 5, 6, 7,
15 8, 9, 10, and 11. Do you see that? I can represent
16 to you that it does and maybe point you to number 6
17 just as another concrete example.

18 A Okay.

19 Q So here you were asked to "Admit that at the
20 Criminal Trial of Steven Avery, Avery's attorneys
21 contended that Plaintiff made the call to dispatch
22 referenced in Paragraphs 30 through 32 of the Second
23 Amended Complaint after Plaintiff had located Teresa
24 Halbach's SUV." Do you see that?

25 A Yes.

1 Q I read it correctly?

2 A Yes.

3 Q And you made the same objection here, you
4 said essentially I can't admit that because contend
5 means to state something in a strong and definite
6 way. Do you see that?

7 A Yes.

8 Q And you don't think Avery's attorneys
9 contended that you made the call to dispatch after
10 you had located the SUV, correct? You don't think
11 they contended that?

12 MR. BURNETT: Objection, foundation.

13 A No, I don't think they did.

14 Q Do you stand by that definition of contend
15 as you sit here today, that to contend something, it
16 has to be stated in a strong and definite way?

17 A Yeah. Yes.

18 Q All right. So, you know, we haven't gotten
19 to the documentary yet, but when we do, we're going
20 to use your definition, and I'm going to ask you
21 things like what did Making a Murderer contend in a
22 strong and definite way, and I just want to put that
23 idea in your head so you're ready for it down the
24 road --

25 A Uh-huh.

1 conviction?" And Brenda said, "Yes and no." And I
2 said, "Okay." And then she said, "Okay. He felt
3 defamed, or in my opinion, I would say he felt very
4 wronged after the trial, during the trial, okay?" I
5 said, "M-hm." And she said, "But felt redeemed with
6 the verdict."

7 That's Ms. Schuler's testimony, and my
8 question for you is do you agree with her assessment?

9 A No.

10 Q Which part do you disagree with?

11 A I didn't feel very wronged after the trial.

12 Q Okay. Any other part you disagree with?

13 A No.

14 (Exhibit 35-B marked for identification.)

15 Q Okay. I'm going to hand you 35-B.

16 A Okay.

17 Q So I'm going to start on line 22 of page 141.
18 Do you see where I'm at?

19 A Yes.

20 Q And so I'm following up on Ms. Schuler's
21 testimony, and I say, "So you just testified that he
22 felt very wronged during the trial, and then he felt
23 vindicated by the verdict and that he was very upset
24 by Making a Murderer; is that a fair summary of what
25 you said?" And she said, "Yes." And I asked, "The

1 reason he felt wronged during the trial by Mr. Buting
2 and Mr. Strang is because in defending Steven Avery,
3 they accused Mr. Colborn of planting evidence to
4 secure Avery's conviction; is that correct?" And
5 Ms. Schuler said, "That is correct." Did I read that
6 correctly?

7 A You did.

8 Q Okay. And I know you disagree with her
9 description that you felt wronged, but is there
10 anything else here in her testimony that you disagree
11 with?

12 A I -- the sole -- the reason that I didn't
13 feel -- that I felt wronged, using your word there,
14 is not necessarily because of Mr. Buting and
15 Mr. Strang using as a possible defense planting
16 evidence. The whole media support of them and lack
17 of support of us and people in my community that I
18 know I've helped that may have not believed in law
19 enforcement, believed in the conviction, that's the
20 reason I felt wronged.

21 Q Okay. So I just -- I'm a little confused,
22 so I just want to clarify. You felt wronged at trial
23 but not because of Mr. Buting and Mr. Strang; is that
24 what you're saying?

25 A Not solely, correct.

1 **interviewed for Convicting a Murderer, correct?**

2 A Yes.

3 Q **And this is how you feel sitting here today,**
4 **correct?**

5 A Yes.

6 Q **Mr. Colborn, are you comfortable at this**
7 **point articulating the defense's theory during the**
8 **murder trial for Teresa Halbach?**

9 A I am not.

10 Q **But you dispute that their theory was that**
11 **you planted evidence to frame Steven Avery?**

12 A As I said earlier, I believe it might be
13 part of -- part of their defense, yes.

14 Q **Okay.**

15 A But, again, I must reiterate I was never
16 accused of planting evidence in trial.

17 Q **I'm struggling to see the difference. I**
18 **mean, can you explain it to me? You say it was part**
19 **of their defense theory that you were not accused.**

20 A To be totally honest, I was as shocked as
21 you. When I'm all done testifying, it's like where's
22 the planting defense? So I don't know. I don't know
23 where they were going. I thought maybe they were
24 shifting gears and going to something else, that they
25 had realized that we hadn't planted evidence. That

1 Go ahead.

2 A So, again, I wasn't privy to closing
3 arguments, to all the other witnesses that testified,
4 but I know that that was part of their defense.

5 (Exhibit 161 marked for identification.)

6 Q I'm handing you what we've marked as
7 Exhibit 161, and I'll represent to you that this is
8 part of the transcript from day 7 of Steven Avery's
9 jury trial.

10 A Okay.

11 Q Do you see that on the very front page?

12 A Yes.

13 Q And I've given you the front two pages of
14 that transcript, but I'd ask you to flip to the third
15 page, which is page 201.

16 MR. BURNETT: Did you say this is
17 Exhibit 161?

18 MS. WALKER: Yeah.

19 Q On page 201 Attorney Kratz is speaking. Do
20 you see that at the top?

21 A Yes.

22 Q And if you jump to the paragraph at the
23 bottom of that page, he said, "Now, we've heard
24 Mr. Strang's opening statement where planted evidence
25 has been eluded to." Do you see that in the third

1 paragraph at the bottom?

2 A Yes.

3 Q And that's Mr. Kratz referring to this
4 theory as one of planted evidence. Do you see that?

5 A Yes, I see -- yes.

6 Q Okay. Now skip to the next page, 202.

7 A Okay.

8 Q And I'll tell you, I'll represent to you,
9 that this is a transcript of argument Mr. Kratz was
10 making to the judge directly after you left the
11 stand, okay? At the bottom of page 202, he says,
12 "Now, for the first time, when evidence should be
13 placed into the record, or at least placed into this
14 particular case, we hear nothing. And so, Judge, I'm
15 asking for alternative direction, or rulings from the
16 Court, first, if the defense is abandoning their
17 planting evidence theory."

18 Do you see he called it a planting evidence
19 theory right there?

20 A Yes, I see he called it that, but he's also
21 asking if it was abandoned.

22 Q And I'll represent to you that the judge at
23 the end of this transcript says it had not been
24 abandoned. Are you aware of that?

25 A No, because I wasn't there for this.

1 Q But I just want to ask then if you agree
2 with Mr. Kratz and if for the rest of the day we can
3 call this theory the planting evidence theory?

4 A Well, I'm not going to agree that there was
5 an evidence planting theory with me. As I've said
6 numerous times this morning, I was never accused of
7 planting evidence in trial.

8 Q So let me point you to page 204.

9 A Okay.

10 Q And here we have Attorney Strang responding
11 to Mr. Kratz, and he starts a paragraph at the bottom
12 of the page with the word "second." Do you see that?

13 A Yes.

14 Q Keep in mind, this is just after you stepped
15 down from the stand. Do you see that? He says,
16 "Second, just by the by, we haven't gotten to the
17 defense case-in-chief yet at all. We're in the
18 prosecution case-in-chief. So all of this, at some
19 level, would be wildly premature. But, beyond that,
20 to confront it most directly, I'm idealistic. I'm
21 certainly naive at times. I am not so naive to think
22 that someone who may have planted blood evidence, who
23 may have been involved in planting a key, would come
24 into this courtroom, and simply, because I asked
25 under oath, did you do it, say, oh, yes, I did. We

1 are not going to have a Perry Mason moment here."

2 Did I read that correctly?

3 A Yes.

4 Q So Mr. Strang here is saying just because I
5 didn't ask Mr. Colborn directly did you plant
6 evidence doesn't mean we're abandoning the planted
7 evidence theory. Is that your understanding of what
8 I just read to you?

9 A No, not really.

10 Q Okay. We'll let the transcript speak for
11 itself, and we'll move on.

12 A Okay.

13 Q Did you ever sue Dean Strang?

14 A No.

15 Q Why not?

16 MR. BURNETT: Um...

17 Q I don't want to know about conversations
18 with your attorney. So if there's any reason other
19 than your attorney told you not to, I'd like to know
20 why you decided not to sue Dean Strang.

21 A There is no other reason than what you just
22 stated.

23 Q Do you understand that you can't sue people
24 for defamatory things they say about you in court?
25 And I'm not asking for what your attorneys have told

1 Q So if you could flip back to Exhibit 7,
2 that's that email with Mr. Dunphy we spoke about
3 earlier today.

4 A Yeah, got it.

5 Q And you sent this email on January 12th,
6 2016, correct?

7 A Yes.

8 Q So, again, as you said, that was pretty
9 quickly after the release of Making a Murderer,
10 right?

11 A Yes.

12 Q Okay. So we talked about -- on the first
13 page of this email to Mr. Dunphy, we've already
14 talked about your statement to him that the claims by
15 the Netflix documentary mirror those claimed by the
16 defense during trial. You remember discussing that
17 this morning, correct?

18 A Yes.

19 Q So let me direct you to the second page here
20 of the same exhibit.

21 A I'm sorry. What was the exhibit number
22 again? Sorry about that.

23 Q Number 7.

24 A 7. Got it. Okay.

25 Q So if you go to the second page --

1 A Okay.

2 Q -- the fourth line down, about midway in it
3 says, "During the trial." Do you see that?

4 A Yes.

5 Q And I'll read it out loud. You wrote to
6 Mr. Dunphy, "During the trial Mr. Avery was very well
7 represented by Attorney Dean Strang from Madison,
8 Wisconsin and Attorney Jerome Buting from Brookfield,
9 Wisconsin. In short, the defense was that I and
10 another now retired police officer planted the
11 evidence that led to Mr. Avery's conviction." Did I
12 read that correctly?

13 A Yes.

14 Q Okay. And you stand by that statement as
15 you sit here today?

16 A I stand by the statement that I authored
17 that, but, again, I feel that the planting of
18 evidence defense was never truly presented to me in
19 the trial and it was only one aspect of their
20 defense.

21 Q Well, then why did you say that to someone
22 you were trying to hire? Do you think what you told
23 Mr. Dunphy is inaccurate?

24 A Well, one, I wasn't very happy when I penned
25 this, and two, you know, the whole email was written

1 more out of emotion than it was with forethought, and
2 I probably should have referred Mr. Dunphy to
3 Mr. Strang's and Mr. Buting's out-of-court comments.

4 Q So you didn't think as carefully about how
5 to phrase it in this email as you've thought about
6 how to phrase it at today's deposition; is that fair?

7 A Well, I've had a lot more years of getting
8 it thrown in my face. So, you know, it's probably
9 by -- in January, what was it, 12th of '16 after
10 Making a Murderer had been out exactly one month, I
11 didn't phrase it as well as I should have.

12 Q So you weren't accurate when you were
13 describing the case to people you were hoping to hire
14 as an attorney; is that correct?

15 A I probably wasn't as accurate as I should
16 have been, no.

17 Q Let's take a look at Exhibit 49.

18 (Exhibit 49 marked for identification.)

19 A I don't think I have that.

20 Q I'm giving you that one.

21 A Oh, okay.

22 Q Would you like us to get those in order for
23 you?

24 A We can do it at a break.

25 Q Okay.

1 A I'll page through it, but thank you.

2 Q This is another email that you sent to
3 Patrick Dunphy on January 12th, 2016. Do you see
4 that?

5 A Yes.

6 Q You wrote, "Dear Sir, I now see Attorney
7 Strang will be giving a presentation on the Avery
8 case on 1/27/16 in Minneapolis, Minnesota at Sisyphus
9 Brewing. It's sold out or I would try to obtain a
10 record of the 'event' for you as I am guessing my
11 name will be bantered about quite a bit.
12 Specifically the claims against me are these: That
13 all evidence gathered at the crime scene was planted,
14 including the victim's bones which were located in a
15 fire pit next to the Avery's residence where he
16 burned her body after dismembering her. In Avery's
17 home was located the key to the victim's vehicle,
18 which had Avery's DNA on it. Their story is I
19 planted the key. I am being accused of breaking into
20 our own courthouse and stealing a vial of blood that
21 was used as an exhibit in Avery's first trial. Next
22 I am accused of either killing the victim, or giving
23 her to someone else who killed her and then planting
24 her body at Avery's residence. I know this sounds
25 unbelievable but you can't make this stuff up." I

1 lost my place for just a minute. If you skip down a
2 few lines, two, three, four, five, six, seven, it
3 goes on to say, "If you are in disbelief I assure
4 this is all in the court records of this case." Do
5 you see where I stopped there?

6 A Yes.

7 Q Okay. So you're telling Patrick Dunphy that
8 all of these accusations against you about planting
9 evidence are in the court records of the case,
10 correct?

11 A Yes, that's what I'm telling him.

12 Q Okay. Do you want to change your story
13 today?

14 A No.

15 Q You stand by that statement?

16 A What do you mean by change my story? I
17 guess can you clarify?

18 Q Well, do you -- yeah. When you tell Patrick
19 Dunphy that at trial you were accused of all of these
20 things and that you can assure him that this is all
21 in the court records for this case, do you stand by
22 that statement as you sit here today?

23 A Yes, I did tell him that, but I didn't have
24 the trial transcript in front of me and reviewed the
25 trial transcript for a case that had happened ten

1 years ago.

2 Q **So you're changing your story?**

3 MR. BURNETT: Objection, form.

4 A I'm saying I based a lot of this information
5 off social media, threats that were being made to me,
6 and I didn't have the trial transcript in front of
7 me.

8 Q **Any other reason you're departing from that
9 statement?**

10 A No, no other reason.

11 Q Two lines down from there you say, "The
12 defense continues, in part thru Netflix, to maintain
13 and keep alive these lies to this day. Just last
14 week Strang was on WTMJ Radio saying these things I
15 just mentioned. The trial was over 10 years ago, how
16 much longer can the defense attorneys continue this
17 crusade against my agency and me personally??" Did I
18 read that correctly?

19 A Yes.

20 Q **And if I'm reading this, you believe the
21 defense team lied about you during the trial,
22 correct?**

23 A Yes.

24 Q Okay. That's when their crusade against you
25 began, correct?

1 aware of the amount of video splicing that had
2 occurred to, for instance, take my image from one
3 area and transplant it to another.

4 Q Okay.

5 A I believe that was the idea behind it, to
6 make me appear more guilty.

7 Q I'm going to hand you what we've marked as
8 Exhibit 16-E.

9 MS. WALKER: I think my numbering might
10 be a little off. Okay. 16-B.

11 (Exhibit 16-B marked for identification.)

12 Q This is from page 103 of Mr. Griesbach's
13 book *Indefensible*, and I'll just read you starting
14 with the word "after" at the top of page 103. "After
15 all, I could imagine without justifying it for a
16 minute that convinced of Stevens Avery's guilt, but
17 concerned there was not evidence to convict him.
18 Colborn and/or Lenk could have planted the key to
19 strengthen the case. Short of being in the room
20 where they found the key, I realize it's impossible
21 to know with 100 percent certainty." Did I read that
22 correctly?

23 A Yes.

24 Q And you know what happened in that room when
25 the key was found, don't you, Mr. Colborn?

1 A Yes, I do.

2 Q But unless Mr. Griesbach was in the room
3 with you or any of us sitting here today were in the
4 room with you, none of us can know with 100 percent
5 certainty, correct?

6 A I would think that I drove that point home
7 in the trial, and based on the subsequent conviction,
8 I believe the jury was convinced of it.

9 Q We would have to trust you, correct,
10 Mr. Colborn?

11 A Yes, you would have to trust that I was
12 telling the truth under oath.

13 Q And the jury found for the prosecution and
14 convicted Mr. Avery, correct?

15 A Yes, they did.

16 Q And the jury's findings were included in
17 Making a Murderer, correct?

18 MR. BURNETT: Objection, form.

19 Q Do you know?

20 A I have not watched a clip of or any of
21 Making a Murderer when the jury verdict is read or --
22 so I can't answer you positively. I don't know what
23 was included. I don't know what episode that was in.

24 Q You have no reason to dispute that it was
25 included, correct?

1 motivation that you had for wanting to see Steven
2 Avery convicted for Teresa Halbach's murder?

3 MR. BURNETT: Same objection.

4 A Not until the Kratz redirect. I wasn't -- I
5 didn't know where Dean Strang was going with his
6 questions about the -- this phone call, but the Ken
7 Kratz redirect seemed to have summed it up or pointed
8 it out that that's where he was headed with it.

9 Q And I think Ken Kratz's redirect, it even
10 went one step further, right, in that he's saying
11 this didn't give you motivation to frame Steven
12 Avery?

13 A Yes, that's correct.

14 Q And it didn't give -- and it didn't give you
15 motivation to plant evidence against Steven Avery,
16 right?

17 A Correct.

18 Q And then you denied, you said, "I never did
19 plant evidence against Steven Avery," right?

20 A Or anyone.

21 Q Or anyone.

22 A Correct.

23 MR. BURNETT: When we get to a stopping
24 point, can we take a break?

25 MR. VICK: Yeah. Sure. Probably just a

1 couple more minutes. Then I've got a natural spot.

2 MR. BURNETT: Take your time.

3 MR. VICK: Then we're done with this --
4 the '94, '95 call.

5 MR. BURNETT: That makes sense.

6 Q And one of your complaints in this case
7 about Making a Murderer is that it shows this line of
8 argument, right, that Steven Avery's attorneys were
9 suggesting that you had planted evidence against him,
10 right?

11 A We discussed this yesterday at length. I
12 was never accused of planting evidence, so I'm not
13 going to say that that's what their defense was.

14 Q Would you agree with me that they were
15 strongly suggesting that?

16 A No.

17 Q Would you agree with me that Ken Kratz's
18 redirect shows that he understood that that's what
19 they were driving at?

20 MR. BURNETT: Objection, form,
21 foundation.

22 Q Let me rephrase that. Did it occur to you
23 that Ken Kratz was asking you to deny that you were
24 motivated to frame Steven Avery based on the '94, '95
25 call? Did that suggest to you that Ken Kratz

1 Q Was that just a coincidence or was that an
2 arrangement where if you and Lieutenant Lenk were
3 doing a search, there had to be someone from Calumet
4 County there?

5 A My understanding is as it pertained to
6 myself and Lieutenant Lenk or myself and Dave
7 Remiker, but he wasn't out there all that long due to
8 a family issue, or the three of us together, there
9 would also be somebody with Calumet County with us.

10 Q Was that the only instance in your law
11 enforcement career where when you were conducting
12 searches of a premises, you had to have someone from
13 another county with you?

14 A Yes. That was definitely a unique
15 situation.

16 Q Did you resent it a little bit?

17 A No.

18 Q Did you understand it?

19 A Yes.

20 Q What did you think was the justification for
21 it?

22 A I imagine that they wanted the lead -- two
23 lead investigators, which were Calumet County --
24 investigating agencies I should say, which was
25 Calumet County and Wisconsin Department of Justice,

1 wanted to make sure that there was somebody from
2 Calumet County to rebut any unfounded accusations
3 that Manitowoc County had done something improper.

4 **Q But despite that, there were accusations**
5 **along those lines at Steven Avery's trial, right?**

6 A I wasn't privy to Steven Avery's entire
7 trial. No accusations were made of me, if that
8 helps.

9 **Q While you were on the stand?**

10 A Correct.

11 **Q Would you agree that suggestions were made**
12 **or implications were made that you or Lieutenant Lenk**
13 **had planted the key that was later found in Steven**
14 **Avery's bedroom that turned out to be the key to**
15 **Teresa Halbach's car?**

16 MR. BURNETT: Objection, form,
17 foundation.

18 A I was just waiting for the aircraft. My
19 impression was that while there were questions asked
20 by defense counsel on how -- you know, how we hadn't
21 found the key until the seventh search, it appeared
22 to me that they had abandoned the planting theory and
23 had switched, in my opinion or my perception, to some
24 sort of procedural defense, that I had missed some
25 sort of procedure or that Lieutenant Lenk had missed

1 some sort of procedure.

2 Q Switching back to November 8th of 2005, that
3 was the date when the key was found in his bedroom,
4 right?

5 A On November 8th?

6 Q 8th.

7 A Yes, I believe so.

8 Q And you were there that day in your capacity
9 as an evidence tech; is that correct?

10 A Yes.

11 Q Now, in your Second Amended Complaint, you
12 allege that Making a Murderer -- Making a Murderer
13 did not include a photograph of the bookcase that you
14 testified about when you were on the stand at the
15 criminal trial; is that correct? I can show you
16 where in the Complaint it is if you'd like.

17 A Yeah, please.

18 Q Sure. It's paragraph 44.

19 A Okay. Okay. I've read it. Thank you.

20 Q Are you familiar with the photograph in
21 question that the Complaint's referring to here?

22 A I know there's a photograph that was taken
23 showing that the veneer back of the bookcase had
24 separated from the actual frame of the piece of
25 furniture.

1 Q How about Brenda Schuler, did she volunteer
2 to get involved or did you ask her?

3 A I believe Michael asked her.

4 Q Now, you've mentioned a few times today that
5 you're an introvert, right?

6 A I don't recall if I mentioned it today, but
7 certainly during my deposition with Attorney Walker I
8 did.

9 Q And so probably being in the spotlight,
10 that's not your idea of a good time, right?

11 A No, it's not.

12 Q Does it make you nervous?

13 A I'm not -- I don't like being in the
14 spotlight. I can't necessarily say that it's because
15 it makes me nervous. I just don't like to be the
16 center of attention.

17 Q Uncomfortable would be a fair
18 characterization?

19 A Sure.

20 Q Has this deposition made you feel nervous or
21 uncomfortable?

22 A Well, I'm a private person. It's what an
23 introvert is. I'm being asked very private, personal
24 questions. Yes, it makes me feel uncomfortable.

25 Q I'd like to look back at Exhibit 2.

1 A Is that the Amended Complaint?

2 Q It is, yeah.

3 A Okay.

4 MR. BURNETT: Are we in a position to
5 wrap this up?

6 MR. VICK: We are.

7 MR. BURNETT: Great.

8 Q I'd like you to look at paragraph 37
9 specifically.

10 A Okay. Okay.

11 Q So here you say, "Defendants Ricciardi and
12 Demos strategically spliced 'reaction' shots of
13 plaintiff appearing nervous and apprehensive at trial
14 into other portions of his testimony where he did not
15 appear nervous or apprehensive in fact." Do you see
16 that?

17 A Yes.

18 Q Do you recall what it was about your
19 demeanor in any of the shots that made you look
20 nervous or apprehensive? Was there anything that you
21 can recall right now that made you feel that way?

22 A Specifically the clip that you showed me
23 that I commented on earlier where it appears that
24 Dean Strang is giving me some sort of staredown and
25 the -- it pans to the shot of me leaning back and

1 cracking my knuckles.

2 I did that during a recess out of the view
3 of the jury. I certainly didn't do it in front of
4 Attorney Strang, but it certainly does make me look
5 nervous and apprehensive and that I've been caught in
6 some sort of lie.

7 Q Now, Mr. Colborn, I'm not sure if you're
8 aware, but during this deposition the last couple
9 days, you've kept your head down a decent amount.
10 Does that sound right?

11 A I'm frequently reading, but yes.

12 Q And you've sometimes had your head in your
13 hands or cracked your knuckles in the course of this
14 deposition. Does that sound right?

15 A Okay. I don't recall that, but I don't know
16 what -- what you want me to -- what you're trying
17 to -- can you clarify a little bit for me?

18 Q Well, is it possible that maybe things like
19 cracking your knuckles or looking down, that that's
20 just a natural mannerism of yours?

21 A The footage that I've watched of my trial
22 testimony, I frequently make contact with whoever
23 questioning me. Now, I was not in trial given a
24 stack of documents like this and told frequently to
25 go to this page, go to that page, look at this, look

1 at that, read that. So that requires me to look down
2 in order to be able to see it.

3 MR. VICK: George, I think I'm done.
4 Could I take two minutes?

5 MR. BURNETT: Sure. Thank you.

6 THE VIDEOGRAPHER: Going off the record
7 at 4:32.

8 (Brief recess held.)

9 THE VIDEOGRAPHER: Back on the record at
10 4:38.

11 MR. VICK: I wanted to make one
12 correction. I had said that Ms. Ricciardi had --
13 that it was with the U.S. Attorney's Office. I've
14 been informed it's actually the Manhattan DA's
15 Office. I just didn't want to have anything wrong
16 there.

17 Q (By Mr. Vick:) Question for you. Was there
18 any disciplinary action gains you by the Manitowoc
19 County Sheriff's Department after Making a Murderer
20 came out?

21 A Not that I recall, no. The fact that I sent
22 that email to John Ferak didn't go over very well,
23 but I wasn't disciplined out of a verbal counseling
24 session.

25 Q What did they tell you in the verbal

1 CERTIFICATION PAGE
2

3 STATE OF WISCONSIN)
4 MILWAUKEE COUNTY)

5
6 I, PAULA M. HUETTENRAUCH, RMR, CRR,
7 Notary Public in and for the State of Wisconsin, do
hereby certify:

8 That prior to being examined, the
9 deponent named in the foregoing deposition,
10 ANDREW L. COLBORN, was by me duly sworn to testify
11 the truth, the whole truth, and nothing but the
12 truth.

13 That said deposition was taken before
14 me at the time, date, and place set forth; and I
15 hereby certify the foregoing is a full, true, and
16 correct transcript of my shorthand notes so taken and
17 thereafter reduced to computerized transcription
18 under my direction and supervision.

19 I further certify that I am neither
20 counsel for nor related to any party to said action,
21 nor in any way interested in the outcome thereof; and
22 that I have no contract with the parties, attorneys,
23 or persons with an interest in the action that
24 affects or has a substantial tendency to affect
25 impartiality, or that requires me to provide any
service not made available to all parties to the
action.

IN WITNESS WHEREOF, I have hereunto
subscribed my name this 28th day of July, 2022.

21
22 

23 Paula M. Huettenrauch, RMR, CRR
24 Notary Public - State of Wisconsin

25 My Commission Expires 8/18/2023

